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Committee on Economic, Social and Cultural Rights

Fifty-ninth session

Summary record of the 51st meeting

Held at the Palais des Nations, Geneva, on Monday, 19 September 2016, at 3 p.m.

Chair: Mr. Sadi

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Fifth periodic report of Costa Rica

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The meeting was called to order at 3.05 p.m.

Consideration of reports:

(a) Reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

Fifth periodic report of Costa Rica (E/C.12/CRI/5; E/C.12/CRI/Q/5 and Add.1)

1. *At the invitation of the Chair, the delegation of Costa Rica took places at the Committee table.*

2. **Mr. Solano Ortiz** (Costa Rica), introducing his country's report (E/C.12/CRI/5), said that, on 9 September 2016, Costa Rica had become the first country in the world to adopt a national agreement on the implementation of the Sustainable Development Goals, which involved the three branches of power as well as the private sector, civil society organizations and academia and whose purpose was to promote a better standard of living. Costa Rica had also signed the Paris Agreement, which was currently before the National Assembly for adoption. In August 2015, article 1 of the Constitution had been amended to highlight the multi-ethnic and multicultural nature of Costa Rican society, embrace diversity and establish conditions in which everyone could enjoy their rights. The Government had deposited the ratification instrument for the Optional Protocol to the Covenant in September 2014.

3. In keeping with its focus on the most vulnerable in society, the Government had recently ratified the Inter-American Convention against Racism, Racial Discrimination and Related Forms of Intolerance and the Inter-American Convention on Protecting the Human Rights of Older Persons. In addition, the Act on the Promotion of the Autonomy of Persons with Disabilities had entered into force, providing for exceptions to the guardianship system, abolishing prohibitions established in the Code of Civil Procedure and introducing the concept of a personal assistant to facilitate independent living. The Office of the Deputy Minister for Political Affairs and Public Dialogue had been designated to handle indigenous affairs and an indigenous advisor had been appointed to coordinate its work with indigenous peoples. A mechanism for mandatory consultation with indigenous peoples was also to be set up in line with Presidential Directive No. 042-MP. With regard to persons of African descent, a dedicated office had been established and a national plan adopted.

4. Over the previous 20 years, great strides had been made in many areas, including life expectancy, reductions in infant mortality, drinking water and electricity coverage and reforestation. Nevertheless, unequal income distribution, poverty and inequality remained sources of considerable concern. Efforts were being made to identify continued weaknesses and to ensure that no one was left behind in the pursuit of development. New approaches and projects, such as the Bridge to Development programme, had been adopted to tackle poverty and extreme poverty and ensure that resources were channelled to the most needy. Over 109,000 individuals had benefited from the programme thus far. The national policy on the comprehensive care of abandoned persons and persons living on the streets had been introduced in July 2016, and a hospital would be established in the coming months to offer treatment to address the problem of alcohol abuse among indigenous women. A programme had also been launched to provide Internet access to marginalized households. Lastly, a labour reform had been approved to guarantee justice for workers, improve inspection services and establish legal protection against employment discrimination.

6. **Mr. Uprimny** (Country Rapporteur) commended the State party on its strong democracy, robust rule of law, inclusive approach to development and commitment to environmental protection. He said that the abolition of the military had no doubt played a significant role in the country's impressive progress on social indicators. However, the

situation appeared to have stagnated and even regressed in some areas over the previous 15 years, in particular with regard to poverty and inequality. Accordingly, he asked what the Inter-Agency Commission for the Monitoring and Implementation of International Human Rights Obligations and other entities were doing to facilitate consultation with civil society and act on its recommendations and how the decisions of the Constitutional Chamber of the Supreme Court of Justice were implemented. He invited the delegation to comment on the institutional shortcomings that might explain why policies on economic, social and cultural rights were poorly implemented. He requested further information on government health expenditure and on plans to review income redistribution schemes.

7. Expressing concern about the lack of consultation with indigenous peoples and the failure to ensure the restitution of indigenous lands that had been occupied by non-indigenous persons, he asked whether prior consultation with indigenous peoples was a justiciable right and why the bill on the autonomous development of indigenous peoples had yet to be enacted. He wished to know what plans there were to adopt comprehensive anti-discrimination legislation, how the State party was addressing problems in access to information and education for the lesbian, gay, bisexual, transgender and intersex (LGBTI) population, and what strategies were in place to improve the process for determining migration status and to ensure that migrants received identification documents. Lastly, he asked what steps were being taken to further reduce vertical and horizontal gender segregation in the labour market.

8. **Mr. Kedzia** said that, in the light of the substantial share of the active population employed in the informal market, he would like to know how those workers' rights were protected and to what extent they had access to social security. He asked what the impact had been of the Empléate Public-Private Labour Plan 2013 and, referring to the component of the Plan tailored to persons with disabilities, as mentioned in paragraph 53 of the replies to the list of issues, what precisely was meant by the word "benefited". He would like to see a more detailed assessment, including analytical data, of the impact of the measures taken to promote women's participation in the labour force and would welcome information on the changes generated by the State party's implementation of the Committee's previous concluding observations in reducing the high unemployment rates found among women, indigenous groups, persons of African descent, young people and other marginalized groups.

9. The delegation should provide more information on the main findings of the National Wages Council over the previous five years, specifically the level and breadth of application of the minimum wage and any sectoral variations therein, with particular reference to domestic workers. He would also be interested to learn how the Government planned to enforce labour inspections of private homes where domestic workers were employed and whether such inspections had led to any proceedings. Given that the labour inspectorate was required to carry out more tasks than in the past, with a smaller staff than in 2010, he would like to know how the State party planned to rectify that situation. It would also be useful to learn whether the recently adopted health policy, which specifically excluded informal sector workers, covered all other workers.

10. He would like to know the reason for the extremely slow progress of the bill to change to the policy prohibiting foreign nationals holding positions of importance in trade union organizations and of the process of ratification of the International Labour Organization (ILO) Maternity Protection Convention, 2000 (No. 183) and Equality of Treatment (Social Security) Convention, 1962 (No. 118). Had specific measures been taken to address violations of trade union rights, including threats against trade union leaders and members? He also wished to know the practical outcome of the Supreme Court ruling that certain restrictions on the right to collective bargaining were unconstitutional.

11. In respect of social security coverage, he would like to hear how the State party intended to address the fact that a large part of the population was still not covered by either the universal or the voluntary social security system. Details on access for disadvantaged groups, including homeless persons, would be welcome. It would be interesting to learn whether workers in the informal system had access to the contributory system, whether the benefits provided a decent standard of living and what was being done to make that system universal. Were the benefits provided under the non-contributory system sufficient to offer an adequate standard of living and what proportion of persons in need received such support?

12. **The Chair** asked what was done with the funds that would otherwise have paid for the army and other security forces. He said that he would also like information on the security situation in the country, given that security was a human right. Given the marked differences in wealth between neighbourhoods of San José and the high cost of living in the country, he would be interested to learn how people in the country coped with the economic situation. He would also welcome information on the authorities' attitude to the migrant workers who transited the country from south to north.

The meeting was suspended at 4 p.m. and resumed at 4.20 p.m.

13. **Mr. Solano Ortiz** (Costa Rica) said that the decree establishing the Inter-Agency Commission for the Monitoring and Implementation of International Human Rights Obligations made no provision for the participation of civil society organizations. However, discussions had recently begun with such organizations and two places on the Commission were now set aside for them; the groups concerned were also intending to establish a civil society body to contribute to the State party's follow-up to treaty body recommendations. Furthermore, the Office of the United Nations High Commissioner for Human Rights (OHCHR) was about to set up a pilot project on follow-up in Costa Rica based on its existing programme in Paraguay and as a precursor to similar projects in other Latin American countries.

14. In a move to articulate the human rights activities of the different State bodies and avoid duplication in their work, the Vice-President of the Republic had been appointed head of the Department of Social Affairs. A new intersectoral commission held regular meetings to discuss human rights activities, and overall efficiency had been improved through, inter alia, the monitoring of public policy implementation. The results-based management process was enhancing coordination between institutions working on social affairs at the highest level.

15. The Covenant took precedence over domestic law, as was reflected in a series of resolutions and decisions adopted by the Constitutional Chamber of the Supreme Court of Justice, which clearly recognized and implemented the Covenant articles. In a number of cases, it had adopted *ergo omnes* decisions ruling against the State for non-implementation of the Covenant, notably in the areas of health and education, and specifically in the case of in vitro fertilization. The ban on that procedure had been challenged in the Inter-American Court of Human Rights, which had ruled that the State party must allow it. It had now been introduced in one health centre in the country and the public health authority had decided that it should be made available to all parts of the population. In other cases, persons suffering from rare diseases that were often very expensive to treat had brought amparo proceedings to have their rights protected. Once the Constitutional Chamber had handed down a ruling, all citizens had the right to such treatment.

16. **Ms. Sánchez** (Costa Rica) said that it was proving difficult to achieve a consensus on legislation concerning the rights of indigenous peoples and the relevant bill was still before the Legislative Assembly. Although the Institute of Land and Colonization had been set up in 1977 to address the demarcation of indigenous lands throughout the country, a

census of land held by non-indigenous persons had been conducted in the regions of Salitre and Cabagra only in May 2016; the process of land recovery was now beginning. Courts with specialized magistrates had been set up throughout the country to hear complaints brought by indigenous peoples, and conflicts over land ownership were dealt with in line with the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the United Nations Declaration on the Rights of Indigenous Peoples. The aim of the new Indigenous Affairs Commission was to implement a three-stage plan for restitution of the land over the next six years. Funds had been set aside to cover the cost of salaries, transport and equipment, and the State would pay compensation to the expropriated non-indigenous occupants.

17. The Legislative Assembly was seeking a consensus on fiscal matters in order to close loopholes that allowed tax evasion, and a register of final beneficiaries was being drawn up in the fight against money laundering. New regulations on public sector spending meant that publicly funded institutions had to return any unspent budget allocations to the State, and funding from institutions that did not meet their mandate would be used to pay off the national debt.

18. To address discrimination, the Ombudsman was working with the human rights committee of the Legislative Assembly on a framework bill to combat all its forms in health care, education, workplaces and the provision of goods and services; the final text would be presented during the current legislative session. The Constitutional Chamber of the Supreme Court of Justice had ruled that the interpretation that had been given previously to article 52 (o) of the Electoral Code was unconstitutional and that the system of alternating between genders on electoral lists should be replaced by a system of horizontal parity to ensure that as many lists were headed by women as by men. Once it was adopted, the bill to reform article 60 of the Constitution would allow foreign citizens to become union leaders and permit both employers and workers to join unions. The constitutional reform process was underway but not yet complete: the bill would have to be debated and voted on three times over the course of two legislative sessions and receive two thirds of the votes of the members of parliament.

19. **Mr. Solano Ortiz** (Costa Rica) said that work was under way to establish a body in which indigenous peoples were represented. A working group composed of representatives of State institutions and of indigenous peoples had been convened in September 2016 to discuss land security, governance, development plans and the establishment of a mechanism for consultation. The aim was to move beyond the issues addressed in the bill on the autonomous development of indigenous peoples, which was still being considered by parliament.

20. **Ms. Whyte** (Costa Rica) said that the Legislative Assembly was discussing a proposal to balance the current budget deficit by increasing tax revenue, monitoring spending more effectively and combating tax evasion to improve tax collection. The government proposal to extend the indirect tax base by moving from sales tax to value added tax (VAT) could reduce extreme poverty in Costa Rica by 2 per cent. To address the concern that such a move would be regressive, the Government was considering a rebate mechanism for low-income families. Social spending stood at more than 23 per cent of GDP with social security accounting for 9 per cent of GDP. However, the Government was still paying off a health spending debt of around 10 per cent of GDP. With regard to education spending, the Government aimed to reach the constitutional target of 8 per cent by the end of its term. She would provide written information on social spending in rural areas, as well as on recent steps taken to protect the social, economic and cultural rights of LGBTI persons, including measures to extend social protection to same-sex partners and to combat discrimination in workplaces and universities.

21. **Mr. Solano Ortiz** (Costa Rica) said that an agreement had been reached with the Office of the United Nations High Commissioner for Refugees (UNHCR) to facilitate refugee processing procedures, and an agreement signed with UNHCR and the International Organization for Migration (IOM) on persons in transit in Costa Rica from the northern triangle allowed them access to education, health care and language and skills training in Costa Rica for 90 days before entering a third country determined by UNHCR and IOM. The country was experiencing a significant rise in migration, particularly from Cuba and Haiti, which had led to the adoption of major decisions to protect human rights and prevent trafficking, particularly following the closure of the Nicaraguan border.

22. Government action to promote gender equality included the creation of a fund to support women entrepreneurs and certificates of excellence for companies ensuring gender parity. Campaigns were being conducted to reduce wage gaps, and the number of women attending State-run centres for training in male-dominated fields such as mechanics had increased. The system of collective agreements was under review, with the aim of establishing a framework for good relations between employers and workers and preventing abuse of the system. Work was underway to ensure that national standards were in line with the relevant ILO Conventions and to provide universal social security cover. The funds that would have gone into military spending were primarily channelled into domestic security, including training for security personnel on combating threats such as drug trafficking and organized crime, particularly in vulnerable border areas. Lastly, the Government was working on ways to reduce the high cost of living in Costa Rica.

23. **Mr. Abdel-Moneim** said that the transition to VAT might prevent people on a low income from exercising their right to an adequate standard of living.

24. **Ms. Bras Gomes** said that she would like to know why, if it was possible to include informal sector workers in a voluntary insurance scheme, they could not be covered by the public social security system. More information would be appreciated on the nature of the voluntary scheme, its benefits and the basis on which the contributions were calculated. With regard to the new convention on the rights of older persons, she wished to know how such an instrument would go beyond existing conventions in its protection of human rights.

25. **Mr. Martynov** asked whether informal sector workers were afforded any form of protection, particularly health coverage.

26. **Mr. Schrijver** said that it was striking that the Covenant had been invoked in domestic courts in only five cases over a five-year period, each time in relation to the right to health enshrined in article 12. He wished to know whether enough was being done to raise awareness of the Covenant within the judiciary. He would also appreciate details of the extent to which the judgments passed in those five cases had been enforced.

27. **Mr. Uprimny** said that he would appreciate clarification on whether the decisions that had been adopted in relation to amparo proceedings brought by persons suffering from rare diseases had generated effects *erga omnes* and whether a mechanism had been put in place to follow up on the enforcement of those decisions. He also asked what judicial protection was granted to persons complaining of a violation of their right to prior consultation.

28. **Mr. Zerbini Ribeiro Leão** said that he wished to know what measures were being taken to promote the equitable distribution of family responsibilities and to combat the exploitation of children. The delegation should explain why Ngäbe-Buglé children of Nicaraguan or Panamanian parentage experienced difficulty in obtaining a birth certificate and whether any steps had been taken to rectify the situation. It should also comment on efforts to address the reported increase in violence against children.

29. He asked why poverty had risen in Costa Rica despite strong economic growth and what was being done to reduce it. He wished to know what steps were being taken to ensure the fulfilment of the economic, social and cultural rights of migrants and refugees, particularly with regard to legal aid and access to health care.

30. He invited the delegation to supply information on the legislative framework for water management and asked whether it needed to be reviewed. Information on the resources allocated to the water and sanitation sector, and on efforts to prevent water pollution, would also be welcome.

31. Noting reports that many families lived in informal settlements and that marginalized groups often faced precarious living conditions, he asked how the State party was responding to the situation. The delegation should comment on reports of forced evictions that violated international standards, including the Committee's general comment No. 7 on the right to adequate housing. Regarding the right of everyone to be free from hunger, two recent statistics were of particular concern. Only 18.7 per cent of children aged 0 to 5 months were exclusively breastfed, while 49.5 per cent of mothers with children of breastfeeding age had an iron deficiency. It would be useful to know what measures had been adopted to improve those figures, what obstacles had been encountered and why current health policies had failed in certain areas.

32. **Mr. Mancisidor de la Fuente**, noting that positive results had been achieved in terms of access to education, said that he would appreciate additional information on teacher training programmes and on the prestige attached to the teaching profession. He asked the delegation to provide examples of best practices in overcoming geographical disparities in access to education and to describe the results of measures to lower school dropout rates. The delegation should comment on a report published by the National Council of Public University Rectors according to which, in the period between 2008 and 2014, there had been a significant increase in the impact of socioeconomic differences on access to education for four-year-old children, indicating that the changes implemented between 2013 and 2015 had been insufficient.

33. He would welcome information on the impact of socioeconomic differences on access to tertiary education, statistics on access to education for persons with disabilities and examples of best practices in that respect. It would also be helpful to receive data on access to education for indigenous persons and on the use of indigenous languages as the medium of instruction. The delegation should explain what training was provided to teachers of indigenous students and what steps were being taken to protect indigenous languages, particularly Boruca, Chorotega, Guatuso and Teribe, which had been categorized as either critically or severely endangered in the Atlas of the World's Languages in Danger, compiled by the United Nations Educational, Scientific and Cultural Organization.

34. He thanked the delegation for its summary of recent measures adopted in relation to in vitro fertilization and said that the Committee would follow any developments with great interest. Lastly, noting that the State party had not yet provided any information on science and technology, he asked what positive steps had been taken to implement article 15 (1) (b) of the Covenant.

35. **Mr. Uprimny** asked whether it was true that rape was not recognized as a legal ground for abortion and, if so, whether the State party intended to bring relevant legislation into line with the Committee's general comment No. 22 on the right to sexual and reproductive health.

36. **The Chair** said that the Committee would appreciate information on the State party's implementation of the Sustainable Development Goals.

37. **Mr. Solano Ortiz** (Costa Rica) said that the aim of the tax reform was to have a progressive system that offered guarantees to protect vulnerable groups. Increased revenue would help the Government to implement its social agenda and thereby provide the public with tools for development and the knowledge to enforce their rights. Economic projections indicated that the reform would lead to a reduction in poverty. Costa Rica was engaged in accession negotiations with the Organization for Economic Cooperation and Development and the Government hoped that joining the Organization would facilitate the establishment of policies to boost opportunities for all.

38. Social security coverage was universal, which meant that even persons covered under a voluntary insurance scheme were guaranteed access to State services, regardless of their personal circumstances. Persons living on the street had access to health care and to pension provision. Arrangements were in place to protect workers who had not made the minimum number of contributions to qualify for a pension and the social security system covered disability, old age and death.

39. Constitutional Chamber judges had a comprehensive understanding of international human rights instruments. The ratification of regional instruments such as the Inter-American Convention on Protecting the Human Rights of Older Persons was intended to complement, rather than undermine, the implementation of international instruments such as the Covenant.

The meeting rose at 6 p.m.